

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JULIAN A. MILLER,

Plaintiff,

v.

STANLEY TAYLOR, individually and in his official capacity as Commissioner of the Delaware Department of Correction; THOMAS CARROLL, individually and in his official capacity as Warden of the Delaware Correctional Center at Smyrna; DR. ALIE, individually and in her official capacity as Medical Director at DCC Smyrna; RN IHOMA, individually and in her official capacity as Registered Nurse at DCC Smyrna,

Defendants.

C.A. No. 04-1367-KAJ

**PLAINTIFF JULIAN MILLER'S MOTION FOR LEAVE
TO FILE A SECOND AMENDED COMPLAINT**

Plaintiff Julian A. Miller (hereinafter referred to as "Plaintiff Miller") hereby moves to amend his complaint to add First Correctional Medical as a defendant, to add a state law claim of medical negligence, and to remove claims against Stanley Taylor and Thomas Carroll in their official capacities. Plaintiff Miller submits the co-filed Memorandum in support of this motion. Attached are the Amended Complaint (attached as Exhibit A), the proposed Second Amended Complaint (attached as Exhibit B), and a red-lined comparison of these documents (attached as Exhibit C).

As set forth in the accompanying opening brief, which has been simultaneously filed and served with this Motion, none of the additional claims present any prejudice to defendants.

Plaintiff Miller respectfully requests that the Court, upon granting this motion, issue an order to the United States Marshal Service to serve Plaintiff Miller's June 9,

2006 filings and a "U.S. Marshal-285" form to Registered Nurse Ihoma at the Delaware Correctional Center, 1181 Paddock Road, Smyrna, DE 19977, and to First Correctional Medical, through its Delaware registered agent, The Corporation Trust Company, 1209 Orange Street, Wilmington, DE 19801. Completed forms will be sent to the Clerk's office upon the granting of this motion.

A proposed form of Order is attached as Exhibit D.

Dated: June 9, 2006

FISH & RICHARDSON P.C.

By: /s/ Sean P. Hayes

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Attorney for Plaintiff
Julian A. Miller

CERTIFICATE OF SERVICE

I hereby certify that on June 9, 2006, I electronically filed with the Clerk of Court **PLAINTIFF JULIAN MILLER'S MOTION FOR LEAVE TO FILE A SECOND AMENDED COMPLAINT** using CM/ECF which will send electronic notification of such filing(s) to the following Delaware counsel, and by Registered Mail, Return Receipt Requested to Dr. Sitta B. Gombeh-Alie at the address below.

BY EMAIL AND BY HAND

Aaron R. Goldstein (I.D. No. 3735)
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*Attorney for Defendants
Stanley Taylor and Thomas Carroll*

**BY REGISTERED MAIL
RETURN RECEIPT REQUESTED**

Dr. Sitta B. Gombeh-Alie
802 Ridge Court
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Middletown, DE 19709

/s/ Sean P. Hayes
Sean P. Hayes